

AMENDED IN SENATE JUNE 26, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN ASSEMBLY APRIL 4, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2112

Introduced by Assembly Member Karnette

February 17, 2006

An act to amend Sections 91004 and 91007 of the Government Code, relating to the Political Reform Act of 1974.

LEGISLATIVE COUNSEL’S DIGEST

AB 2112, as amended, Karnette. Political Reform Act of 1974: civil actions.

Under existing provisions of the Political Reform Act of 1974, a person who violates the reporting requirements specified in the act or makes or receives a contribution, gift, or expenditure in violation of specified provisions of the act is liable in a civil action brought by the civil prosecutor or by a person residing within the jurisdiction. Under the act, before filing a civil action, a person is required to first file with the civil prosecutor a written request for the civil prosecutor to commence the action. Under the act, if the civil prosecutor indicates an intent to file a civil action and files suit within 120 days from receipt of the written request to commence the action, no other action may be brought by the requesting person unless the action brought by the civil prosecutor is dismissed without prejudice.

This bill would limit the number of these civil filings that could be made by an individual or group to ~~10~~ 20 within a 12-month period, and would authorize a court to permit additional filings under

specified circumstances. The bill would also require that any person requesting that the prosecutor initiate a civil action include an affirmation that a copy of the written request has been provided to the person against whom the action is being sought, and would require that the request be limited to a claim that a single person or group of persons has committed a violation of the act during the course of a single transaction or a series of transactions involving the same person or persons. This bill would also require a court, in setting the amount of a judgment, to consider any rules or regulations of the Fair Political Practices Commission for similar violations. The bill would also prohibit a civil action by a requesting person if the commission issues an administrative order or publishes a declaration of no violation, except that a declaration of no violation may be appealed to the court and, under specified circumstances, the court may permit the action to be filed.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 91004 of the Government Code is
2 amended to read:

3 91004. Any person who intentionally or negligently violates
4 any of the reporting requirements of this title shall be liable in a
5 civil action brought by the civil prosecutor or by a person
6 residing within the jurisdiction for an amount not more than the
7 amount or value not properly reported. In exercising its
8 discretion to set the amount of a judgment under this section, the
9 court shall take into consideration any rules and regulations of
10 the commission applicable to similar violations.

11 SEC. 2. Section 91007 of the Government Code is amended
12 to read:

13 91007. (a) Any person, before filing a civil action pursuant to
14 Sections 91004 and 91005, must first file with the civil

1 prosecutor a written request for the civil prosecutor to commence
 2 the action. The request shall include a statement of the grounds
 3 for believing a cause of action exists, and shall include an
 4 affirmation that a copy of the written request has been provided
 5 to the person or persons against whom a cause of action is said to
 6 exist. No person, or group of persons acting in concert, shall file
 7 more than ~~10~~ 20 of these written requests in any 12-month
 8 period. Each written request shall be limited to a claim that a
 9 single person, or a group of persons acting in concert or
 10 otherwise jointly and severally liable, has committed one or more
 11 violations of this title during the course of a single transaction or
 12 occurrence, or in a series of transactions or occurrences involving
 13 the same person or persons. Any person who is unable to file a
 14 written request under this section because he or she has filed ~~10~~
 15 20 or more requests in a 12-month period may apply to the court
 16 for permission to bring a civil action pursuant to Section 91004
 17 or 91005. The court shall grant permission if it determines that
 18 the civil action is in the public interest and the person has
 19 established probable cause to believe that ~~he or she will prevail in~~
 20 ~~the civil action~~ *a violation of this title has occurred*. The civil
 21 prosecutor shall respond to the person in writing, indicating
 22 whether he or she intends to file a civil action.

23 (1) If the civil prosecutor responds in the affirmative and files
 24 suit, or the commission issues an order or publishes a declaration
 25 of no violation pursuant to Section 83116, within 120 days from
 26 receipt of the written request to commence the action, no other
 27 action may be brought unless an action brought by the civil
 28 prosecutor is dismissed without prejudice as provided for in
 29 Section 91008, except that a declaration of no violation may be
 30 appealed to the court. If an appeal of a declaration of no violation
 31 is filed, the court shall permit a civil action to be filed if it
 32 determines that the appellant has established probable cause to
 33 believe that a violation has occurred.

34 (2) If the civil prosecutor responds in the negative within 120
 35 days from receipt of the written request to commence the action,
 36 the person requesting the action may proceed to file a civil action
 37 upon receipt of the response from the civil prosecutor, provided
 38 that the person against whom a cause of action is asserted has
 39 ~~actually and timely received~~ *been provided* the notice required in
 40 subdivision (a), and further provided that the person filing the

1 action, or persons acting in concert with that person, has not filed
2 ~~10~~ 20 or more written requests pursuant to this section within the
3 previous 12-month period. If, pursuant to this subdivision, the
4 civil prosecutor does not respond within 120 days, the civil
5 prosecutor shall be deemed to have provided a negative written
6 response to the person requesting the action on the 120th day and
7 the person shall be deemed to have received that response.

8 (3) The time period within which a civil action shall be
9 commenced, as set forth in Section 91011, shall be tolled from
10 the date of receipt by the civil prosecutor of the written request to
11 either the date that the civil action is dismissed without prejudice
12 or the date of receipt by the person of the negative response from
13 the civil prosecutor, but only for a civil action brought by the
14 person who requested the civil prosecutor to commence the
15 action.

16 (b) Any person filing a complaint, cross-complaint, or other
17 initial pleading in a civil action pursuant to Section 91003,
18 91004, 91005, or 91005.5 shall, within 10 days of filing the
19 complaint, cross-complaint, or initial pleading, serve on the
20 commission a copy of the complaint, cross-complaint, or initial
21 pleading or a notice containing all of the following:

22 (1) The full title and number of the case.

23 (2) The court in which the case is pending.

24 (3) The name and address of the attorney for the person filing
25 the complaint, cross-complaint, or other initial pleading.

26 (4) A statement that the case raises issues under the Political
27 Reform Act of 1974.

28 (c) No complaint, cross-complaint, or other initial pleading
29 shall be dismissed for failure to comply with subdivision (b).

30 SEC. 3. The Legislature finds and declares that the provisions
31 of this act further the purposes of the Political Reform Act of
32 1974 within the meaning of subdivision (a) of Section 81012 of
33 the Government Code.